

**Date:** January 31, 2013

**To:** Thomas J. Bonfield, City Manager

**Through:** W. Bowman Ferguson, Deputy City Manager

**From:** Marvin G. Williams, Director of Public Works

**Subject:** Petitioned Sidewalk Assessment Rates

### **Executive Summary**

City Council has expressed a desire to bring the sidewalk petition process more in line with the existing Durham Walks! Pedestrian Plan. As a result staff is recommending that the City begin issuing two types of petitions.

The first will be a petition for sidewalk improvements for sections of sidewalk that already lie within the Durham Walks! Pedestrian Plan but are not yet fully funded. Citizens would have the opportunity to petition for these improvements, and upon achieving a sufficient petition, the sidewalk would be ordered by Council with the understanding that this section of sidewalk would move to a higher priority on the Walks Plan and be subject to a maximum assessment of \$35.00 per front foot, with an eight (8) year payback period, at an annual interest rate to be determined by Council at the time of assessment roll confirmation as set forth in Resolution #9815, adopted by City Council on May 7, 2012.

The second petition option that is being recommended would allow citizens to petition for sidewalk improvements that lie within the City limits but are not currently on the Durham Walks! Pedestrian Plan. With these petitions there would be an understanding that 100% of the actual cost of the improvement would be assessed against the abutting properties. This would allow the requested sidewalks to be built by the City and to be fully funded by the abutting property owners through the assessment process. As an "actual cost" assessment project, the assessment rate would not be determined until after the project is completed and all costs are tabulated. These assessments will have an eight (8) year payback period, at an annual interest rate to be determined by Council at the time of assessment roll confirmation.

A petition for sidewalk, whether inside or outside the Durham Walks! Pedestrian Plan, will be deemed sufficient if both of the following criteria are met:

1. The legal owners of 70% of the lots with road frontage within the project limits must sign the petition; and
2. The petition must be signed by the legal owners of lots representing at least 70% of the length of the road frontage within the limits of the petitioned project.

The adoption of the attached resolution will in effect allow for the continuation of citizen requested sidewalks, in addition to the current Durham Walks! Pedestrian Plan. The adoption of the attached ordinance will establish the assessment rates for the two types of petitioned sidewalks.

### **Recommendation**

The Department recommends that the City Council adopt a resolution and an ordinance calling for an assessment rate of \$35.00 per front foot for those ordered petitioned sidewalks that lie within the approved Durham Walks! Pedestrian Plan, with the understanding that this proposed funding would allow these sidewalks to move to a higher priority in the Plan. The resolution and ordinance will also allow for sidewalk petitions outside the Durham Walks! Pedestrian Plan to be issued, and if sufficient, to be subsequently ordered with the understanding that the ordered improvements will be assessed at 100% of the actual cost. The maximum assessment payback period will continue to be eight (8) years with an annual interest rate approved by Council at the time of the assessment roll confirmation.

A petition for sidewalk, whether inside or outside the Durham Walks! Pedestrian Plan, will be deemed sufficient if both of the following criteria are met:

1. The legal owners of 70% of the lots with road frontage within the project limits must sign the petition; and
2. The petition must be signed by the legal owners of lots representing at least 70% of the length of the road frontage within the limits of the petitioned project.

This new assessment rate for projects outside the Durham Walks! Pedestrian Plan will apply to projects for which a sufficient petition is returned to the City on or after April 1, 2013.

It is also being recommended that sidewalk projects that have been previously ordered by Council will be assessed at the rate at which they were initially ordered. The construction priority of these previously ordered sidewalks will be determined by the City Manager based on their rank in the adopted Durham Walks! Pedestrian Plan.

### **Background**

The City of Durham currently has three means for sidewalk construction to be accomplished. The first is by developer participation wherein a requirement for sidewalk construction in any given development project is a committed element. The second way is through the Durham Walks! Pedestrian Plan wherein sidewalk needs are prioritized and ultimately built utilizing funds from a variety of sources. The third option, which is available to properties within the City limits only, is through sidewalk petition by citizens who wish to have sidewalks installed in a specific area and are willing to pay a portion of the construction cost through the assessment process.

Chapter 6, Article 7, Section 77 of the City Charter outlines the procedures for citizens to petition for sidewalk improvements, as well as the procedures for assessing abutting

property for such improvements. At the direction of City Council at the November 10, 2011 Council Work Session, the Public Works Department studied the actual construction costs in our most recent contracts for new sidewalk installation in order to recommend a change in the assessment rate schedule. The recommended rate adjustment from \$5.00 to \$ 35.00 per front foot brought sidewalk assessments to 90% of the average actual construction costs. The sidewalk assessment rate had last been increased in 1985 from \$3.00 per front foot to \$5.00 per front foot. This low assessment rate was kept in place as a means to encourage the petitioning and ultimate installation of sidewalks in the City. A limited amount of funding was allocated each year and that, in addition to several bond initiatives, allowed for the construction and assessment of many sidewalks in the City.

Council has on numerous occasions requested that the sidewalk petition process be brought in line with the existing Durham Walks! Pedestrian Plan, while providing some type of mechanism that will allow citizens to continue to petition for sidewalks with the understanding that they would be assessed a significant portion of the cost.

### **Issues and Analysis**

The addition of a second “outside the Plan” petition type (with an actual cost assessment) along with a petition type for projects “inside the Plan” will allow citizens to continue to utilize the petitioning process with the understanding that the new process in effect will cause a significantly steeper financial participation by the abutting property owners in the ultimate construction cost than has been the case in the past. This will also allow the City to recoup a significant portion of the money it expends to construct petitioned sidewalks.

In addition, these new processes will allow that the construction priority of petitioned sidewalks outside the Plan will be determined by the City Manager in conjunction with the City Council approved priority sidewalks and the petitioned sidewalks that lie within the adopted Durham Walks! Pedestrian Plan.

### **Alternatives**

1. The City Council could refrain from adopting the proposed resolution and ordinance and maintain the current sidewalk petition process and assessment rate. This is not recommended.
2. The Council could choose to suspend the current sidewalk petition process and rely solely on the Durham Walks! Pedestrian Plan for City sidewalk construction. This is not recommended.
3. The City Council could adopt the recommended processes of having two types of petitions and the resolution and ordinance amending the current sidewalk assessment rate for petitioned sidewalk improvements outside the plan, and allow the public to continue to petition for sidewalks within the City Limits that are outside the adopted Plan with an actual cost assessment. This is recommended.

**Financial Impacts**

Assessment revenue would increase proportionally to the rate increase for improvements outside the Plan and would also serve to offset the construction cost of ordered petitioned sidewalks within the Plan by having the property owners contribute through assessment a significant portion of that cost.

**SDBE Summary**

No SDBE implications have been identified for this matter.